



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable W. P. Waldrop  
County Auditor  
Grayson County  
Sherman, Texas

Dear Sir:

Opinion No. 0-4119

Re: What are the correct fees to be collected by the probate court and county clerk from any citizen of the State of Texas wishing to file the record of any birth or death that occurred in Texas not previously registered? And a related question.

Your letter requesting an opinion of this department on the questions stated therein reads, in part, as follows:

"1. What are the correct fees to be collected by the Probate Court and County Clerk from any citizen of the State of Texas wishing to file the record of any birth or death that occurred in Texas, not previously registered.

"2. What are the correct fees to be collected by the Probate Court and County Clerk from any citizen of the State of Texas wishing to file the record of any birth or death that occurred outside of the State of Texas, not previously registered."

The Texas Statutes dealing with vital statistics are found as Rules 34-a to 55-a, inclusive, of Article 4477 of Vernon's Annotated Civil Statutes of Texas. Some of these rules have been amended by House Bill No. 821, House Bill No. 824 and House Bill No. 974, respectively, of the Acts of the 47th Legislature, Regular Session, 1941.

House Bill No. 974, supra, among other things, provides:

"\* \* \*, that any citizen of the State of Texas wishing to file the record of any birth or death that occurred in Texas, not previously registered, may submit to the Probate Court in the County where such birth or death occurred, a record of such birth or death written on the adopted forms of birth and death certificates; and provided further that any citizen of the State of Texas wishing to file the record of any birth or death that occurred outside of the State of Texas, not previously registered, may submit to the Probate Court in the County where he resided a record of that birth or death written on the adopted forms of birth and death certificates. The certificate shall be substantiated by the affidavit of the medical attendant present at the time of the birth, or in case of death, the affidavit of the physician last in attendance upon the deceased, or the undertaker who buried the body. When the affidavit of the medical attendant or undertaker cannot be secured, the certificate shall be supported by the affidavit of some person who was acquainted with the facts surrounding the birth or death, at the time the birth or death occurred, with a second affidavit of some person who is acquainted with the facts surrounding the birth or death, and who is not related to the individual by blood or marriage. \* \* \*."

House Bill No. 624, supra, provides, in part:

"\* \* \*, that any citizen of the State of Texas wishing to file the record of any birth or death, not previously registered, may submit to the Probate Court in the county where the birth or death occurred, a record of that birth or death written on the adopted forms of birth and death certificates. The certificate shall be substantiated by the affidavit of the medical attendant present at the time of the birth, or in case of death, the affidavit of the physician last in attendance upon the deceased, or the

undertaker who buried the body. When the affidavit of the medical attendant or undertaker cannot be secured, the certificate shall be supported by the affidavit of some person who was acquainted with the facts surrounding the birth or death, at the time the birth or death occurred, with a second affidavit of some person who is acquainted with the facts surrounding the birth or death, and who is not related to the individual by blood or marriage. The Probate Court shall require such other information or evidence as may be deemed necessary to establish the citizenship of the individual filing the certificate, and the truthfulness of the statements made in that record. The Clerk of said Court shall forward the certificate to the State Bureau of Vital Statistics with an order from the Court to the State Registrar that the record be, or be not, accepted. The State Registrar is authorized to accept the certificate when verified in the above manner, and shall issue certified copies of such records as provided for in Section 21 of this Act. Provided, however, that when application is made, as provided in this paragraph, a fee of One Dollar (\$1) shall be collected by the Probate Court, Fifty (50) Cents of which shall be retained by the Court, and Fifty (50) Cents of which shall be retained by the Clerk of the County Court for recording said birth or death certificate. Certified copies of said birth or death certificate shall be issued by either the County Clerk or the State Registrar and fee for said certified copy shall be Fifty (50) Cents. Such certified copies shall be prima facie evidence in all Courts and places of the facts stated thereon. No other charge shall be made for the issuance of such delayed certificates and certified copies thereof. The State Bureau of Vital Statistics shall furnish the forms upon which such records are filed, and no other form shall be used for that purpose.

The fact that the present law relating to the issuance of delayed birth or death certificates

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does not stipulate the fees to be charged and the fact that there is no uniformity of fees that are charged throughout the State, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House shall be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted."

In answer to your first question, you are respectfully advised that it is the opinion of this department that when any citizen of the State of Texas files a record of any birth or death that occurred in Texas, not previously registered, in compliance with the above mentioned Acts, a fee of One Dollar (\$1.00) shall be collected by the Probate Court, Fifty Cents (\$0.50) of which shall be retained by the Court, and Fifty Cents (\$0.50) of which shall be retained by the Clerk of the Court for recording said birth or death certificate. The Clerk of the Court is authorized to issue certified copies of said birth or death certificate and is entitled to a fee for said certified copy of Fifty Cents (\$0.50). It will be noted that House Bill No. 624, supra, specifically provides "no other charge shall be made for the issuance of such delayed certificates and certified copies thereof."

What was said with reference to your first question is equally applicable to your second question and the same is answered accordingly.

Trusting that the foregoing fully answers your inquiry,  
we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By (s) Ardell Williams  
Assistant

AW:RS

APPROVED OCT. 29, 1941  
(s) Grover Sellers  
First Assistant Attorney  
General

APPROVED  
Opinion Committee  
By B. W. B. Chairman